

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

Kenny Randolph Little :

FILED SEP 25 2002 PM 2:07 USDCALS

Plaintiff

:

vs.

Civil Action No. 02-720-CB-1

Olin Corp.

:

Defendant(s)

:

COMPLAINT

1. Plaintiff resides at P+1 Box 318A M&O plant, ala 36
2. Name(s) of defendant(s) Mrs. Harris, Jerry Bacon, Jose, Mc
3. Location of principal office(s) of the named defendant(s) Olin Corp.

M&O plant

4. Nature of business of defendant(s) Chemical

5. Approximate number of individuals employed by defendant(s) 300

6. The acts complained of in this suit concern:

(A) Failure to employ me.

(B) Termination of my employment.

(C) Failure to promote me.

(D) Other acts as specified below: Americans with

Disabilities Title VII

7. Plaintiff is:

(A) Presently employed by the defendant.
(B) Not presently employed by the defendant.

The dates of employment were 03/27/1977 - OCT, 1991

(1) Plaintiff was discharged.
(2) Plaintiff was laid off.
(3) Plaintiff left the job voluntarily.

8. Defendant(s) discriminated against me on account of my:

(A) Race Sex
 Color National Origin
 Religion

Therefore, I am bringing this action for employment discrimination pursuant to Title VII of the Civil Rights Act of 1964, specifically, 42 U.S.C. § 2000e-5.

(B) Physical disability
 Mental disability

Therefore, I am bringing this action pursuant to the American with Disabilities Act, specifically, 42 U.S.C. § 12117.

(C) Age

Therefore, I am bringing this action pursuant to the Age Discrimination in Employment Act of 1967, specifically, 29 U.S.C. § 626.

9. The name(s), race, sex, and the position or title of the individual(s) who allegedly discriminated against me during the period of my employment with the defendant company is

(are) MRS KAREN HARRIS, JOE mcFARLAIN, TERRY B

10. The alleged discrimination occurred on or about Aug 9 - OCT 9 - The
091

11. The nature of my complaint, i.e., the manner in which the individual(s) named above

discriminated against me in terms of the conditions of my employment, is as follows: _____

See attachments

12. The alleged illegal activity took place at Blin Corp. (Mechanics Rd)

13. I filed charges with the Equal Employment Opportunity Commission regarding alleged discriminatory conduct by defendant(s) on or about December 12, 2001

I have attached a copy of the Notice-of-Right-to-Sue letter issued by the Equal Employment Opportunity Commission. This letter was received by me on 04-05-2002

14. I seek the following relief:

(A) Recovery of back pay.

(B) Reinstatement to my former job, and any other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Date: 9/25/2002

Kenney R. Little
Signature of Plaintiff

P.O. Box 3184 Mechanics
Address of Plaintiff

(291) 866-0750
Telephone Number of Plaintiff

Kenny R. Little
Rt1 Box 318a

McIntosh al, 36553
251-866-0750

Dear Friend's

I have been working in the McIntosh Plant for 24 years.
I think I have been a good employee for that time I
Have there.

On Oct 9th of 2001 I was sent to the plant Doctor, Dr
Dixon, Before then that morning I was working in one
Of the Units, helping some other guys get it started up.
I was able to help them that morning why not now.

Most of the people in the unit will say that I am good to work
With, and pose no problem, In fact I help them.

On Oct 9th, I seen Dr. Dixon who told me I could not go back
To work because shake, My hands and neck. My prefial vision
Is not as good as it use to be, and he was scared of that
Me being Bi-Polar, he did not like that. I have been treated
For a span of Ten years, with the same medication.

They say I am Disabled from work yet I have not I have no
Received anything in writing. I have not received and short
Term disability checks.

Olin Corp. to me needs to find if I am Fired or disabled.
And take me out of this limbo

Singnature

Kenny R. Little
9/25/2002

KENNY R. LITTLE

Rt 1 Box 318a
McIntosh, AL
36553
251-866-0750
kenny_lit@msn.com

09/25/2002

Dear Friend,

I hope this letter will help out with some of the questions you might still have about this case. On August the 9th Terry Bacon said that I could no longer work in my position, but they let me work Two more month's. If I could work two month's why could I have not work longer, in my position.

There is the matter of everyone knowing about the Disablement. It got leaked out to the whole plant. It was like my Medical Record's got turned a lose, and every one had made up there minds.

The day that I went to see DR. Dixon I ask him was I Disabled, the told me that he did not know if I was Disabled, but he put me off of my job anyway.

As I said before I hope this helped out. Call or write me if you have any question's about this case.

Sincerely,

Signature

Kenny R. Little

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Kenny R. Little
Rt. 1 Box 318 A
McIntosh, AL 36553

From: Birmingham District Office
Ridge Park Place, Suite 2000
1130 22nd Street South
Birmingham, AL 35205

[] *On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))*

Charge No.	EEOC Representative	Telephone No.
130-A20-1594	Jean McGinnis-Barrera	(205) 731-1185

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- [] The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- [] Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- [] The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- [] We cannot investigate your charge because it was not filed within the time limit required by law.
- [] Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- [] While reasonable efforts were made to locate you, we were not able to do so.
- [] You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- [X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- [] The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- [] Other (briefly state) _____

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Cynthia G. Pierre, District Director

(Date Mailed)

Enclosure(s)

cc: Information Sheet
Copy of Charge
cc: Respondent(s)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS – Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 9 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed).

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS – Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment of backpay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/96 to 12/1/96, you should file suit before 7/1/98 -- not 12/1/98 -- in order to recover unpaid wages due for July 1996. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA backpay recovery period.

ATTORNEY REPRESENTATION – Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your effort to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, a charge file is kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

~~DO NOT FILE AGE DISCRIMINATION CLAIMS AGAINST STATE EMPLOYERS: HOW KIMEL V. FLORIDA BOARD OF REGENTS AFFECTS YOUR RIGHTS~~

The Supreme Court has recently held in *Kimel v. Florida Board of Regents*¹ that the Federal Age Discrimination in Employment Act (ADEA) does not override a State's constitutional immunity from suits by private persons for monetary relief. Therefore, you may not bring an age discrimination suit seeking monetary relief against a State employer in either Federal or State court, unless the State has given its consent. We know of no State that consents to Federal ADEA suits. However, the *Kimel* Court noted that persons may recover money damages from their State employers under State age discrimination laws in 44 States.²

The age discrimination provisions of the ADEA still apply to State employers. In spite of *Kimel*, ADEA charges may still be filed with the EEOC and EEOC retains its full authority to seek relief from ADEA violations and to otherwise enforce the Act, including suing States in Federal or State court.

THE ADDITIONAL INFORMATION BELOW MAY OR MAY NOT APPLY TO YOUR CASE. (Your attorney, EEOC, or a State or local Fair Employment Practices agency that enforces an age discrimination law can explain or discuss these matters with you.)

- States may permit suits by private persons³ but can define how they may be sued, such as procedures, who can sue, and in what courts.⁴ In this regard, as noted above, many States have laws allowing private age discrimination suits in State court under State law. (Therefore, your charge of discrimination, or other factors, may entitle you to sue or otherwise seek relief under State law.)
- *Kimel* does not apply to local units of government - counties, cities, school boards, special taxing districts, etc. - if damages awarded will not come from a State's treasury.⁵ And *Kimel* does not apply to interstate compact agencies that are not structured to qualify for immunity.⁶
- While *Kimel* bars private age discrimination suits for monetary relief under Federal law, you may be permitted to sue State officials, in their official capacity, for purely injunctive relief under the ADEA. This theory will have to be tested in the courts by private litigants.
- Your EEOC charge may claim more than one type of discrimination - disability or a Title VII basis (race, color, religion, sex or national origin) - plus age. *Kimel* does not bar Title VII or Americans with Disabilities Act (ADA) suits in Federal court. However, State law age discrimination suits may not be appended to a Title VII or ADA suit in Federal court.⁷
- Title VII and ADA suits may also be filed in State court.⁸ Therefore, Title VII or ADA suits can be filed in State court with a State law suit that includes, as applicable, State law age discrimination claims.

If you have any questions on your rights under the EEOC statutes, or if you wish to be referred to a private attorney who may consider handling your case, please call the EEOC office where you filed your charge. You may find additional information on the EEOC Internet Web site at www.eeoc.gov.

1. 120 S.Ct. 631 (2000)

2. *Kimel*, note 1

3. *Clark v. Barnard*, 108 U.S. 436 (1883); *Gruer v. Atlantic Coast Line*, 200 U.S. 273 (1906); *Missouri v. Fiske*, 290 U.S. 18, 24 (1933), cited in *Ford Motor Co. v. Dept of Treasury*, 323 U.S. 459 (1945)

4. *Great Northern Life Ins. Co v Read*, 322 U.S. 47, 54 (1944)

5. *Mr. Healthy Bd. of Ed. v. Doyle*, 429 U.S. 274, 280 (1977); *Moor v. County of Alameda*, 411 U.S. 693, 717-721 (1973); *Lincoln County v. Luning*, 133 U.S. 529, 530 (1890)

6. *Lake Country Estates, Inc. v. Tahoe Regional Planning Agency*, 440 U.S. 391, 401 (1979)

7. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 117-21 (1984)

8. *Yellow Freight Systems Inc. v. Donnelly*, 493 U.S. 553 (1990)

CHARGE : DISCRIMINATION		GENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	130A201594
State or local Agency, if any		and EEOC	
NAME (Indicate Mr., Ms., Mrs.)		HOME TELEPHONE (Include Area C)	
Mr. Kenny R. Little		(251) 866-0750	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
Rt. 1 Box 318 A, Mcintosh, AL 36553		DATE OF B 08/20/1	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME		NUMBER OF EMPLOYEES, MEMBERS	
Olin Corporation		Cat A (15-100)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
P.O. Box 28, Mcintosh, AL 36553		COUNTY 097	
NAME		TELEPHONE NUMBER (Include Area C)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
COUNTY		DATE DISCRIMINATION TOOK PLACE EARLIEST	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		LATEST	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		10/09/2001 04/02/2 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. I was hired by the employer named above during March, 1977. On October 9, 2001, I was sent home from work by the company doctor and as of today's date April 2, 2002, I have not been allowed to return to my position of utility operator.</p> <p>II. I was informed by Dr. Dixon that I was been sent home because of my disabilities.</p> <p>III. I believe that I was discriminated against in violation of the Americans With Disabilities Act of 1990, as amended because of my disabilities.</p>			
(Original Charge Filed December 12, 2001)			
RECEIVED APR 10 2002 E.E.O.C. Birmingham District			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.		SIGNATURE OF COMPLAINANT	
X 4-15-02 X Kenny R. Little Date 4-15-02 Charging Party (Signature)		SUBSCRIBED AND SWEARN TO BEFORE ME THIS DAY (Month, day and year)	
EEOC FORM 5 (Rev. 07/99)			